

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of NORMAN M. PERRAS and DEPARTMENT OF THE NAVY,  
PUGET SOUND NAVAL SHIPYARD, Bremerton, WA

*Docket No. 99-1182; Submitted on the Record;  
Issued August 3, 2000*

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DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,  
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly denied appellant's claim for an emotional condition.

The case has been on appeal previously.<sup>1</sup> In a November 19, 1997 decision, the Board noted that appellant had filed a claim on December 13, 1994 for stress caused by "cumbersome process, compensation process, lack of money and aggravation of diseases caused by work." The Office indicated that appellant had subsequently related his claim to the Office's actions related to his claim for employment-related chemical sensitivity, which it denied. In a February 3, 1995 decision, the Office denied appellant's claim on the grounds that he did not establish that he sustained an injury in the performance of duty. In a June 8, 1995 decision, an Office hearing representative noted that appellant had submitted additional medical evidence and remanded the case to the Office to request a detailed factual statement from appellant describing factors of employment to which he attributed his medical condition and to inform him of the medical evidence necessary to establish his claim. In an August 31, 1995 decision, the hearing representative vacated her previous decision and affirmed the Office's February 3, 1995 decision. In its November 19, 1997 decision, the Board found that appellant had attributed his stress to aggravation of disease caused by work and had submitted medical reports which attributed his stress to an increase in his work load and changes in his position at the employing establishment. The Board noted that the Office had not informed appellant that he needed to submit a detailed statement describing the employment factors to which he attributed his condition. The Board remanded the case to the Office to properly advise appellant of any defects in the evidence submitted and how any such defect might be cured. The Office was instructed to allow appellant at least 30 days to submit any responsive evidence.

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<sup>1</sup> Docket No. 96-251 (issued November 19, 1997).

In a May 29, 1998 letter, the Office asked appellant to describe in detail the employment-related conditions to which he attributed his emotional condition and to describe the development of the claimed condition. The Office also asked appellant to submit medical evidence, which discussed the employment factors to which he attributed his emotional condition and described how those factors caused his condition. The Office indicated that a reasonable time of 30 days would be allowed for submission of the evidence requested.

In a July 8, 1998 decision the Office denied appellant's claim on the grounds that appellant had not met the requirements for establishing that he sustained an injury as alleged. The Office pointed out that additional evidence had not been received and the evidence of record was insufficient to make a factual determination of whether appellant experienced any work factors that contributed to his condition.

The Board finds that appellant has not submitted sufficient evidence to support his claim, filed on December 13, 1994, that he had an emotional condition due to compensable factors related to his employment.

Workers' compensation law is not applicable to each and every injury or illness that is somehow related to an employee's employment. There are distinctions as to the type of situation giving rise to an emotional condition which will be covered under the Federal Employees' Compensation Act. Where the disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability comes within the coverage of the Act. On the other hand, the disability is not covered where it results from such factors as an employee's fear of a reduction-in-force or his frustration from not being permitted to work in a particular environment or to hold a particular position. Disabling conditions resulting from an employee's feeling of job insecurity or the desire for a different job do not constitute personal injury sustained while in the performance of duty within the meaning of the Act.<sup>2</sup> When the evidence demonstrates feelings of job insecurity and nothing more, coverage will not be afforded because such feelings are not sufficient to constitute a personal injury sustained in the performance of duty within the meaning of the Act.<sup>3</sup> In these cases the feelings are considered to be self-generated by the employee as they arise in situations not related to his assigned duties. However, where the evidence demonstrates that the employing establishment either erred or acted abusively in the administration of a personnel matter, any physical or emotional condition arising in reaction to such error or abuse cannot be considered self-generated by the employee but caused by the employing establishment.<sup>4</sup>

In this case, appellant attributed his condition to the Office's actions in his claim for chemical sensitivity which was ultimately denied. The Board has held that factors arising from the compensation process due the actions of the Office are not compensable factors of

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<sup>2</sup> *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>3</sup> *Artice Dotson*, 41 ECAB 754 (1990); *Allen C. Godfrey*, 37 ECAB 334 (1986); *Buck Green*, 37 ECAB 374 (1985); *Peter Sammarco*, 35 ECAB 631 (1984); *Dario G. Gonzalez*, 33 ECAB 119 (1982); *Raymond S. Cordova*, 32 ECAB 1005 (1981); *John Robert Wilson*, 30 ECAB 384 (1979).

<sup>4</sup> *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991).

employment because they do not involve appellant's assigned duties arising from his employment.<sup>5</sup> Appellant's claim for an emotional condition in the current appeal was not based on factors arising from the performance of his assigned duties but was based on his reaction to the Office's actions and denial of a prior compensation claim. He, therefore, did not allege or establish in his December 13, 1994 claim that he had sustained an injury in the performance of his assigned duties.

The decision of the Office of Workers' Compensation Programs, dated July 8, 1998, is hereby affirmed.

Dated, Washington, D.C.

August 3, 2000

Michael J. Walsh  
Chairman

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>5</sup> *Virgil M. Hilton*, 37 ECAB 806 (1986).